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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-ninth session

SUMMARY RECORD OF THE 1483rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 10 August 2001, at 10 a.m.

Chairman: Mr. SHERIFIS

later: Mr. RESHETOV
(Vice-Chairman)

later: Mr. SHERIFIS
(Chairman)

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The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fifteenth and sixteenth periodic reports of Ukraine (continued) (CERD/C/384/Add.2; HRI/CORE/1/Add.63/Rev.1)

1. At the invitation of the Chairman, the members of the delegation of Ukraine resumed their places at the Committee table.

2. Mr. VALENCIA RODRIGUEZ, referring to article 2 of the Convention, noted that paragraph 45 of the report (CERD/C/384/Add.2) referred to the right to equality before the law, and stated that that right, together with the prohibition of ethnic discrimination, was also enshrined in the National Minorities Act. He requested further information about the relevant provisions of the Act. He would also like to know more about the work of the teams referred to in paragraph 47, what groups were represented on them and what results had been achieved. He asked for similar information in respect of the State Committee on Nationalities and Migration, mentioned in paragraph 52.

3. With regard to article 4 of the Convention, he asked the delegation to clarify the provisions of the new bill referred to in paragraph 49 of the report that would provide further legal protection against restriction of the rights and freedoms of citizens on grounds of nationality, ethnicity, race or religion; and the statement in paragraph 64 that only the courts could ban the activities of voluntary associations. With reference to article 5 of the Convention, he would like more information about the application of the Constitution and legal provisions referred to in paragraphs 81 et seq. of the report, and about how the rights of minority groups were recognized by the Government. On the subject of employment rights, he would appreciate further details on the work of the State employment service mentioned in paragraph 113, and an indication of the effect on minority groups of the situation referred to in paragraph 118 relating to minimum wage levels.

4. With regard to article 6 of the Convention, he wondered why, in the statistical reporting of the procuratorial bodies, there was no separate accounting of criminal proceedings for offences based on racial discrimination or hatred (report, para. 193). He also wished to know more about the action taken in the case of some 260 anti-Semitic publications, referred to in paragraph 50.

5. Mr. SEREDA (Ukraine), replying to Committee members' questions and observations, said that the President of the Republic had clearly stated the country's commitment to equality for all and the determination not to tolerate any incitement to racial or ethnic disharmony. The census to be held in December 2001 should provide further information with regard to the country's ethnic composition and the relevant social, economic and cultural parameters.

6. The Ombudsman, presented an annual report to Parliament, which included figures relating to complaints. In 1998, 2,444 complaints and been deemed admissible, and some 4,700 the year after that. A number of difficulties had indeed been experienced, including the

forwarding of some complaints to other bodies, largely because the office of Ombudsman was something new to Ukraine. Of some 1,500 appeals in the previous year to the European Court of Human Rights, the latter had taken up some 700, but no appeals had been based on racial discrimination. His delegation saw no conflict between the country's Constitution and article 2 of the Convention. A number of questions had been asked about the absence of offences under article 66 of the Criminal Code (report, para. 194); but it was surely not a matter for the State if no such proceedings had been instituted. According to the statistics, one case had been brought in 1999 under that article, but had been dismissed for lack of evidence. He agreed, however, to have the matter looked into further, particularly with a view to enquiring whether there had been any cases involving administrative or civil liability, and the findings would be reported to the Committee subsequently. The Committee's comments regarding the reported ethnic balance would be considered with a view to providing suitable information in the next periodic report.

7. The Government welcomed any assistance from abroad in its efforts for the repatriation of Ukrainian citizens. International organizations had already provided some $2 million, and a donor conference had been held in Kiev on the subject. Ukraine also collaborated with the International Organization for Migration (IOM), which had helped in establishing pilot schemes, and was taking measures aimed at halting trafficking in women.

8. Regarding events involving Crimean Tatars, he stressed that, while peaceful demonstrations were a feature of any democratic society, if the boundaries of law and order were broken the law enforcement services had to take action. There might possibly be some imbalance in national minority quotas with regard to elections, although Crimean Tatars were represented in the Supreme Council and in the respective bodies of the autonomous republics. Further legislation was being drafted to deal with such matters, but any decision would be up to Parliament.

9. The Criminal Code distinguished between deliberate and inadvertent offences; in accordance with articles 66, 67 and 402 of the new Code, deliberate intent had to be shown in order to establish an offence. The multi-ethnic institute in the Chernovsty oblast was on the agenda of the State Committee on Nationalities and Migration (report, para. 52); the question of the concept and composition of such a body was still under consideration. In the area where the majority of citizens were Romanian, there was one Romanian-language lyceum and 30 other Romanian-medium schools; the education was free of charge.

10. On the subject of nationality, the Constitution recognized a tripartite structure: Ukrainian nationals, indigenous peoples and national minorities. As yet, no specific law clearly defined the concepts of indigenous and national minority groups but an attempt would be made, in legislation currently being drafted, to define the terms.

11. Mr. CHILACHAVA (Ukraine), referring to implementation of article 2 of the Convention, said that some 500 national cultural societies existed in the country. All national and ethnic minorities had a right to cultural autonomy, with their own councils and consultative bodies, whose representatives regularly attended meetings with the President of the Republic. In accordance with article 16 of the Constitution, on national minorities, the State budget earmarked specific funds for national minorities, chiefly for education, cultural activities, and printing and dissemination of information. School books were printed in Russian, Hungarian, Romanian and

Bulgarian as well as Ukrainian. There were some 1,300 publications in Russian, and 60 other newspapers and periodicals in national minority languages, including his own, Georgian. Of the post-Soviet Union States, Ukraine was singularly placed in that respect. The Government also had comprehensive plans for the promotion of minority cultural activities.

12. It could not be denied that there had been instances of anti-Semitism, including some recorded after preparation of the current report, one of them concerning a newspaper deprived of its publishing licence for having printed anti-Jewish material. Many Jewish organizations and communities flourished in the Ukraine, there was a Council of Jewish Societies, and the current head of the Council of National Minorities was a Jew. There were Jewish publications, television channels and theatres. On 29 September each year, the country solemnly commemorated the Baby Yar massacre, on behalf not only of Jews but of Russian, Ukrainian and other victims. The event was always attended by ministers and officials of the highest level as well as other eminent persons and large numbers of people from all walks of life.

13. With regard to relations between the various nationalities in the country, he had noticed no difficulties in relations between Ukrainians and Russians; as a Georgian, he was perhaps not best placed to comment on that. There was no doubt, however, that the great strides taken towards ethnic harmony in the post-Soviet Union era were one of Ukraine's main achievements.

14. Mr. TOTKIN (Ukraine) said that the socio-economic position of ethnic minorities had of course been affected by the recent economic crisis but the situation in general seemed to be improving and levels of production and real income were increasing; as a member of the Russian minority himself, he did not feel disadvantaged. No ethnically disaggregated statistics were available because since 1993 official documents such as passports and work permits did not mention ethnic or national origin. The upcoming census would provide a better picture of the socio-economic situation in the country and disaggregated statistics should be available for the next report.

15. Turning to the employment situation, he said that 5,000 Crimean Tatars were currently unemployed, which represented approximately 10 per cent of the working-age population; figures for Crimean Tatars fairly closely resembled those for the general population in Crimea. In recent months approximately 20 per cent of unemployed Crimean Tatars and 30 per cent of the non-Tatar unemployed had succeeded in finding jobs. One scheme to help the unemployed provided assistance to individuals wishing to create their own business; of the 223 persons who had taken advantage of that programme, 15 per cent had been Tatars. A programme had also been created to promote employment during 2000-2001 and a special department was responsible for finding employment for returnees, although every effort was made to ensure that such special programmes did not affect the employment opportunities of other groups and minorities. In 2000 some 34,000 Ukrainian citizens had left the Ukraine to seek employment abroad, an increase of 14 per cent over 1998, and the numbers were growing. The Government had adopted measures to facilitate procedures for those wishing to seek work abroad and had entered into agreements with 10 host countries with a view to protecting the rights of Ukrainian workers in their territories. The available figures, however, only represented the tip of the

iceberg, since many individuals left ostensibly as tourists but remained abroad, working illegally. Lack of work and low pay contributed to that economic emigration and the Government was endeavouring to increase employment opportunities and improve wages in order to encourage Ukrainian workers to remain in the country.

16. Mr. YERUKH (Ukraine), referring to the question of citizenship for Crimean Tatar returnees, said there were 270,000 Tatars in Crimea, of whom 21,000 had not yet been granted citizenship, but, on the basis of experience following an agreement with Uzbekistan on simplified procedures for naturalization of returnees, which had led to the granting of citizenship to some 59,000 Tatars in a period of one year, he expected that most of the 21,000 would have been granted citizenship by November 2001. The authorities enjoyed a good relationship with the Crimean Tatars and their representatives at all levels, and structures had been created to facilitate their return and reintegration and protect their rights. It was still expected that between 60,000 and 90,000 Tatars would return from abroad but they were expected to return as part of a gradual process and not a mass influx.

17. Turning to the question of the relationship between law enforcement authorities and national minorities, in particular the Roma, he noted that between 75 and 90 per cent of the 50,000 Roma were in fact settled in cities. The Roma were considered to be full-fledged Ukrainian citizens and the process of issuing new passports to all citizens, including Roma, which did not mention ethnic origin, was almost completed. Although prejudice certainly existed and there had been incidents, much work had been done at the level of government ministries to engage in a dialogue with minorities and to provide, within the law enforcement structure, avenues of appeal and complaint procedures which could result in administrative or other disciplinary measures. As to prejudice within the military against minorities, in particular blacks, he said that new problems which had arisen since independence, such as high levels of illegal immigration from Asia and Africa and drug trafficking, for example in heroin, which seemed to involve Nigerians in 95 per cent of cases, had contributed to stereotyping, but efforts were under way to increase sensitivity among the military with regard to minority issues, through better training and courses in professional ethics. That issue was an ongoing concern and a subject of discussion for the authorities. Individuals guilty of violations of human rights could, for example, be fined or otherwise disciplined.

18. Mr. NOVYCHENKO (Ukraine) said that the Government had made a conscious effort to facilitate freedom of religion and the Constitution and legal framework provided guarantees in that regard, including for minorities and all religious groups. Most of the population was Orthodox but there were also large numbers of Roman Catholics and Muslims, and the languages and cultural and religious traditions of minorities were protected. Most of the Muslim population were Turkish-speaking and 77.5 per cent of them could be found in the Crimea region. There were Islamic institutions of higher education such as the Islamic University in Kiev, 150 Muslim students were currently studying in Turkey and there were nearly 500 Islamic places of worship. He shared the concerns raised by the Committee with regard to reports of recent conflict between Orthodox Christians and Muslims in Crimea and stressed that the State was making every effort to promote dialogue and introduce policies which would lead to reconciliation and peaceful coexistence.

19. Mr. KHRYSTYCH (Ukraine) recalled that the Ukraine had made the optional declaration under article 14 of the Convention concerning individual communications in May 1992.

20. Ms. McDOUGALL (Country Rapporteur) welcomed the State party's continued diligence with respect to its reporting obligations and took note of the progress made towards full protection of human rights. She stressed, however, the need for specific enabling legislation for effective implementation of the provisions of the Convention, in particular with regard to articles 2, 4 and 5, and encouraged the State party to persevere in its efforts to recognize ethnic diversity. More information would also be welcome on the effects of laws and regulations on daily life, in particular for minorities, and on socio-economic differences within the population. While she recognized that efforts had been made to improve relations between law enforcement officials and minorities, it was important to develop effective disciplinary measures for cases of human rights violations by officials, and she warned of the dangers of stereotyping and racial profiling. In addition, she highlighted the need to increase public awareness of remedies and enforcement mechanisms such as the Ombudsman and court action and facilitate access to them by the public, for example through additional funding and provision of legal counsel.

21. Mr. ABOUL-NASR, supported by the CHAIRMAN, speaking in his personal capacity, reiterated the dangers of racial profiling, for example with regard to Nigerians and the heroin trade, and stressed that the real culprits were those involved in organized criminal activities in Ukraine itself and against whom the State must also act rather than giving undue emphasis to foreigners who were themselves victims of those criminal elements.

22. Mr. SEREDA (Ukraine) said he agreed that the quality of its domestic laws reflected the fact that Ukraine was a young State still laying the foundations of its national legislation. The laws adopted thus far by the legislature had reconciled various positions. Since all the laws had been inherited from the Soviet period, many of them were inappropriate and had had to be revised to conform with the nation's new standards. The Supreme Council - or Parliament - itself suffered from the shortcomings of a recently-established legislature with its tendency towards idealism and grand statements. Its procedures and methods of work were, however, evolving and becoming more professional. With the benefit of the views of experts both inside and outside the Government, the Supreme Council was in the process of adopting a whole range of measures on refugees, national minorities and the like. The delegation believed, however, that the overall record was positive. Aware that national minorities and ethnic groups had to be defended, the Government had reviewed existing legislation on the matter or was drafting new legislation. For example, there was a new draft law on citizenship and an independent adviser to the President on national minorities had been appointed. The next report would show the quality of those new laws and their compatibility with the Convention.

23. In February 2001 - a time at which legislation and institutional reform had reached a critical mass - the Model Law on Nationalities and Migration had been adopted, establishing a department to coordinate action in the field of migration and nationalities in each region. Those new services were already bearing fruit: more information was flowing into the Supreme Council and, working with the Council of Representatives of National Minority Voluntary

Associations and other governmental and non-governmental bodies, it in turn could have a greater impact on what was happening locally. Central government structures were therefore being copied at the regional level to create a whole network of administrations that worked successfully.

24. Human rights were protected by government institutions such as the new Ombudsman system, which the Government intended to fine-tune in the near future. A judicial reform dealing with both small and major problems was being conducted. Clearly, the establishment of an independent judiciary - in the matter of appointments, for example, or accessibility - required a comprehensive law on the judiciary, which it was hoped the Supreme Council would soon adopt. The Office of the Procurator General, as well, which had inherited functions from the Soviet system that were not proper to it, now had as one of its major duties the protection of human rights, and that Office would in the future conform completely to relevant international standards. The Government was also enacting legislation to overhaul its social and economic administration, another unfinished task.

25. The salient points raised by the members of the Committee on racial profiling and other matters would prove very useful to the Government in eliminating racial discrimination. The delegation had taken note of the Committee's recommendations and appreciated the professional skills of its members.

26. The CHAIRMAN thanked the delegation for having explained very precisely what the authorities in Ukraine were doing to implement the Convention.

27. The delegation of Ukraine withdrew.

28. Mr. Reshetov, Vice-Chairman, took the Chair.

Draft decision on Cyprus (CERD/C/59/Misc.19)

29. The CHAIRMAN said he took it that the Committee wished to adopt the draft decision on Cyprus without a vote.

30. Mr. SHAHI observed that paragraph 2, requesting the Secretary-General to call the attention of the various appropriate bodies of the United Nations to the decision, in the hope that they would take the measures required, used the language of the Committee's early warning and urgent action procedures. That might be warranted in the current instance and it might set a precedent.

31. Mr. THORNBERRY (Country Rapporteur) pointed out that paragraph 2 reproduced word for word a paragraph in the Committee's previous decision on conditions in Cyprus.

32. The draft decision in document CERD/C/59/Misc.19 was adopted.

Draft concluding observations of the Committee concerning the fifteenth and sixteenth periodic reports of Cyprus (CERD/C/59/Misc.15/Rev.2)

33. Mr. THORNBERRY (Country Rapporteur), introducing the draft concluding observations, said that in formulating them he had been assisted by comments from a number of members.

Paragraphs 1 and 2

34. Paragraphs 1 and 2 were adopted.

Paragraph 3

35. Mr. ABOUL-NASR suggested that paragraph 3 might be the appropriate place to refer to the decision on Cyprus that the Committee had just adopted.

36. Mr. BOSSUYT proposed adding at the end of paragraph 3 a sentence reading: "In this context, attention is drawn to decision No. ... adopted by the Committee."

37. Paragraph 3, as amended, was adopted.

Paragraph 4

38. Paragraph 4 was adopted.

Paragraph 5

39. Mr. DIACONU proposed adding the word "foreign" before the words "domestic workers" so that the paragraph would be specifically related to the Convention.

40. Paragraph 5, as amended, was adopted.

Paragraph 6

41. Mr. DIACONU proposed, for the reason just cited, adding the phrase "of racial discrimination" at the end of paragraph 6.

42. Paragraph 6, as amended, was adopted.

Paragraph 7

43. Paragraph 7 was adopted.

Paragraph 8

44. Mr. DIACONU observed that the third sentence referring to the right of either Cypriot spouse to transmit citizenship to the children had no explicit connection to either the Convention or the previous sentences regarding the elimination of discrimination against non-Cypriot spouses, and he proposed deleting it.

45. Mr. ABOUL-NASR, supported by Mr. PILLAI, said that the third sentence dealt with an important issue resolved by the new Cyprus legislation, although the wording was ambiguous.

46. Mr. THORNBERRY (Country Rapporteur), following an editorial suggestion by Mr. DIACONU, proposed that the third sentence should be deleted and the phrase ", as well as equal rights in the transmission of citizenship to the children" should be added to the end of the second sentence.

47. Paragraph 8, as amended, was adopted.

Paragraph 9

48. Mr. ABOUL-NASR said that the marriage law in question had not yet been adopted and therefore proposed replacing the word "new" before the words "marriage law" by the word "draft".

49. Paragraph 9, as amended, was adopted.

Paragraphs 10 and 11

50. Paragraphs 10 and 11 were adopted.

Paragraph 12

51. Mr. ABOUL-NASR said that "allegation" might be a more apposite term than "information".

52. The CHAIRMAN said that, in the context, the word "information" seemed perfectly appropriate.

53. Mr. PILLAI explained that the paragraph referred to the Amnesty International Annual Report for 1999, which recorded some serious incidents of violence against illegal immigrants being held in custody in Larnaca prison. Since the delegation of Cyprus had supplied a detailed account of the action taken against police officers implicated in the violence, he was in favour of keeping the expression "information".

54. Paragraph 12 was adopted.

Paragraph 13

55. Paragraph 13 was adopted.

Paragraph 14

56. Mr. THORNBERRY (Country Rapporteur) suggested the addition of the phrase "by private persons" after the words "racial discrimination".

57. The CHAIRMAN asked why criminal law had not been mentioned.

58. Mr. THORNBERRY (Country Rapporteur) said that, on the whole, while racial discrimination was well covered in criminal law, it was addressed less well in civil and administrative law.

59. Mr. de GOUTTES proposed the wording "The Committee expresses its concern at the lack of legal provisions".

60. Paragraph 14, as amended, was adopted.

Paragraph 15

61. Paragraph 15 was adopted.

Paragraph 16

62. In reply to a query by Mr. ABOUL-NASR, Mr. DIACONU said that the Convention in question had been adopted by the United Nations in 1991, but had not yet entered into force because very few States had ratified it. The Committee had not previously recommended that State parties should ratify it. Consequently he proposed that the second sentence should be deleted.

63. The CHAIRMAN endorsed Mr. Diaconu's proposal.

64. Paragraph 16, as amended, was adopted.

Paragraph 17

65. Mr. ABOUL-NASR, supported by the CHAIRMAN, asked if it was reasonable to request the State party to increase awareness of the Convention among domestic workers who could hardly read or write.

66. Mr. SHAHI pointed out that, since domestic workers were usually exploited and ignorant of their rights, there was merit in informing them about those rights and ways of securing their enforcement.

67. Mr. DIACONU suggested the addition of the word "foreign" before "domestic workers".

68. Paragraph 17, as amended, was adopted.

Paragraph 18

69. Paragraph 18 was adopted.

Paragraph 19

70. Ms. JANUARY-BARDILL proposed that the word "evidence" should be replaced by "indicate".

71. Mr. ABOUL-NASR, observing that the Committee received communications from very few countries under article 14, expressed misgivings about the concern expressed and said that a corresponding paragraph would have to be included in all concluding observations concerning States which had made the declaration under article 14.

72. Mr. de GOUTTES proposed that "is concerned" should be replaced by "notes ".

73. Mr. THORNBERRY (Country Rapporteur) supported that proposal, with the addition of the words "this procedure under" before "the Convention".

74. Paragraph 19, as amended, was adopted.

Paragraph 20

75. Mr. DIACONU proposed that "for all its citizens" should be added at the end of the paragraph.

76. Mr. FALL, supported by the CHAIRMAN, proposed that the order of paragraphs 19 and 20 should be reversed.

77. It was so decided.

78. Paragraph 20, as amended, was adopted.

Paragraphs 21 and 22

79. Paragraphs 21 and 22 were adopted.

80. The draft concluding observations concerning the fifteenth and sixteenth periodic reports of Cyprus as a whole, as amended, were adopted.

81. On the conclusion of the adoption of the Committee's draft concluding observations concerning the fifteenth and sixteenth periodic reports of Cyprus, Mr. Sherifis, Chairman, resumed the Chair.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 3) (continued)

Comments of Japan on the Committee's concluding observations

82. The CHAIRMAN recalled that the Committee had requested the Permanent Mission of Japan to summarize the Japanese Government's lengthy comments on the Committee's concluding observations, with a view to the inclusion of those comments in the Committee's

report to the General Assembly. The Permanent Mission had forwarded a seven-page abbreviated version of the comments. The Committee's decision on the matter would set a precedent. The options before it were to include the seven-page version as it stood in its report, or to request the Permanent Mission to condense the comments still further.

83. Mr ABOUL-NASR drew attention to the fact that, under article 9 of the Convention, the Japanese Government was entitled to have its comments included in the report, no matter how long those comments were.

84. In reply to a question by Mr. PILLAI about practice in other treaty bodies, the CHAIRMAN stated that other treaty bodies considered fewer reports and therefore their own reports to the General Assembly were generally shorter, whereas the Committee's report was already voluminous even before Governments' comments were incorporated.

85. Mr. DIACONU, supported by Mr. SHAHI, said that, as there was little time to ask for further summarization of the Japanese Government's comments, he advocated inclusion of the abbreviated version thereof in the report.

86. It was so decided.

Inclusion of an item in the agenda of the March 2002 session

87. Ms. JANUARY-BARDILL requested that consideration of her report on reproductive health be placed on the agenda of the Committee's session in March 2002.

88. It was so decided.

The meeting rose at 12.55 p.m.